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January 28, 2014

VIA ECF

Hon. Vera M. Scanlon
United States Magistrate Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Robles v. Liberty Restaurant Supply, Corp.
Case No.: 12 Civ. 5021 (FB)(VMS)

Dear Judge Scanlon:

This Firm represents Plaintiff in the above-referenced matter. Plaintiff respectfully requests that the Court hold a status conference to discuss Defendants' failure to comply with the Court's December 19, 2013 order requiring Defendants to produce a list of employees. Plaintiff also requests that the Court compel Defendants to comply with the order.

On December 19, 2013, the Court conditionally certified a collective action and ordered Defendants to produce a list of employees from October 5, 2009 until the present. In its decision, the Court also noted that Defendants have alleged that their records were all destroyed by Hurricane Sandy and ordered counsel to meet and confer regarding what contact information Defendants are to produce for individuals who worked for Defendants prior to Hurricane Sandy. The Court suggested possible means of obtaining the information, including via Defendants' tax returns.

Shortly thereafter I had a discussion with Defense counsel and suggested that Defendants produce, at a minimum, quarterly New York State tax returns that they filed prior to Hurricane Sandy. Defense counsel advised that Defendants possessed records for current employees but that he would speak to his client about whether Defendants had tax returns from the period prior to Hurricane Sandy.

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I did not hear back from Defense counsel until January 16, 2014, when I received a voicemail requesting an extension of time to produce the list. When I finally spoke to Defense counsel, however, it became obvious that he had never spoken to his client about tax returns or possibly even about the employee list at all.¹ I reminded him of our discussion and advised him to speak to his client immediately.

I heard back from Defense counsel yesterday, who advised that he would speak to his client about tax returns and let me know today. Although I received an email from him tonight advising that Defendants would produce a list of employees, he made no mention of Defendants' tax returns. Even nine days after Defendants' deadline, Defense counsel has still not advised what records Defendants have or whether they will produce them.

Accordingly, Plaintiff respectfully requests that the Court schedule a status conference to discuss Defendants' failure to comply with this Court's December 19, 2013 order, particularly how Defendants intend to produce contact information for individuals who worked for Defendants prior to Hurricane Sandy. In addition, Plaintiff respectfully requests that the Court enter an order compelling Defendants to comply with the December 19, 2013 order.

We appreciate the Court's attention to this matter.

Respectfully Submitted,

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Michael Taubenfeld (MT-4640)

¹ Defendants' failure to comply with the Court's order is unfortunately part of a pattern of delay that has existed throughout this litigation. Plaintiff has consented to no less than five (5) of Defendants' extension requests and afforded Defendants and their counsel countless courtesies. Yet Defendants have been dilatory time and time again in complying with this Court's orders, which has substantially delayed this 16 month old case.